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ART UNIT	PAPER NUMBER
2188	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/702,408	BEAN ET AL.	
	Examiner	Art Unit	
	Kaushikkumar Patel	2188	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 November 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8,13,14 and 16-30* is/are rejected.

7)☒ Claim(s) *9-12 and 15* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *06 November 2003* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *11/13/2007*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. This Office Action is in response to applicant's communication filed November 02, 2007 in response to PTO Office Action mailed May 14, 2007. The applicant's remarks and amendments to the claims and/or specification were considered with the results that follow.

2. In response to last Office Action, claims 20 and 23 have been amended. No claims have been canceled. Claim 30 has been added. As a result, claims 1-30 remain pending in this application.

Response to Arguments

3. Applicant's arguments with respect to claims 1-30 have been considered but are moot in view of the new ground(s) of rejection.

Information Disclosure Statement

4. The information disclosure statement filed November 13, 2007 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the reference cited is a publication of the present application. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based

on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Drawings

5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the claimed features of claim 23, e.g. data structure with fields and top-level folders etc. must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 23-29 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 23 recite the computer readable medium containing a data structure fields and according to MPEP § 2106.01, data structure is a descriptive material but the claimed data structure fails to provide functional interrelationship (see MPEP § 2106.01:

"Certain types of descriptive material, such as music, literature, art, photographs, and mere arrangements or compilations of facts or data, without any functional interrelationship are not a process, machine, manufacture, or composition of matter. USPTO personnel should be prudent in applying the foregoing guidance. Nonfunctional descriptive material may be claimed in combination with other functional descriptive multi-media material on a computer-readable medium to provide the necessary functional and structural interrelationship to satisfy the requirements of 35 U.S.C. 101. The presence of the claimed nonfunctional descriptive material is not necessarily determinative of nonstatutory subject matter. For example, a computer that recognizes a particular grouping or sequence of musical notes read from memory and thereafter causes another defined series of notes to be played, requires a functional interrelationship among that data and the computing processes performed when

utilizing that data. As such, a claim to that computer is statutory subject matter because it implements a statutory process".

Thus claims 23-29 are rejected as non-statutory subject matter.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 1-8, 13, 14, 16-22 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pruthi et al. (US 2002/0105911) and further in view of Leftwich (US 6,356,256) and Hamilton et al. (US 2004/0064293).

As per claims 1 and 30, Pruthi teaches a method of analyzing network traffic on a network (Pruthi: pars. [0011] and [0050]), the network traffic having been captured at a network monitoring computer during a period of time (Pruthi: pars. [0050] and [0036]), the method comprising:

at a user computer receiving data points corresponding to the captured network traffic (Pruthi: pars. [0060], [0082], figs. 10-23. Here it is noted that Pruthi expressly fail to teach data points corresponding to the captured network traffic, however as shown in figs. 10-23, graphs are plotted to show the network traffic, where it is readily apparent that data points must be received corresponding to the network traffic in order to plot the statistics of the network data), the data points comprising:

for the captured network traffic, start time, end time, total frames and total bytes (Pruthi: figs. 10-13, show packets and bytes captured during duration of time period, par. [0036] teaches capturing data in successive time periods, pars. [0091] – [0111] explains start time, stop time and number of packets (e.g. frames) captured during time and number of bits/bytes captured during the same time period).

Pruthi fails to teach but in analogous art Leftwich teaches at a user computer remote from the network monitor receiving data points (Leftwich: figs. 3B, 4, 5A and 5B, col. 4, lines 32-60). It would have been obvious to one having ordinary skill in the art at the time of the invention to use remote network monitoring as taught by Leftwich in the system of Pruthi such that the network monitoring can be performed from any location, without being present at network monitoring location and thus provides flexibility to the administrator/user.

Pruthi and Leftwich further teach information about sections of the captured network traffic, the information including start time, end time, number of frames in the section and number of bytes in the section (Pruthi: pars. [0036] – [0038] teaches generating statistics in recursive time periods and par. [0111] teaches displaying the information between various start/stop intervals, where it is readily apparent that the information displayed is the sections of the entire capture, e.g. time interval 7:18/12:02 of fig. 10 is narrowed to the 9:00/10:00 in fig.11, where it is readily apparent that time period 9:00/10:00 is a section of the time interval 7:18/12:02. Similarly, Leftwich also teaches displaying sections of the original period, e.g. see figs. 4, 5A and 5B of Leftwich, where fig. 5B is a section of fig. 5A).

Pruthi and Leftwich teach storing graphs including data points at the user computer (Leftwich: col. 4, lines 50-60), but fails to teach storing histogram. Hamilton teaches storing and displaying sections of the histograms (Hamilton: fig. 1, items 141, 142, 144, 145, 146, 148; fig. 3; par. [0024]). It would have been obvious to one having ordinary skill in the art at the time of the invention to store sections of the histogram as taught by Hamilton in the system of Pruthi and Letwich to provide/display historical data on a standard monitor screen in a relatively easy to understand manner with less memory to store such information (Hamilton: par. [0011]).

As per claim 2, Pruthi, Leftwich and Hamilton teach presenting a user with a graphical user interface representation of the network traffic by graphing byte density over time in a capture histogram by using the histogram (Pruthi: figs. 10-13, par. [0103]; Hamilton: figs. 5-8 teach histogram with utilization (e.g. bits/second), where it is obvious that bits/second can also be easily converted into the bytes/second).

As per claim 3, Pruthi, Leftwich and Hamilton teach wherein presenting a user with a graphical user interface representation of the network traffic comprises:

including a zoom window, the zoom window useful for highlighting a segment of the capture histogram (Pruthi: pars. [0102], [0111]; Leftwich: col. 5, lines 43-65); and

representing the segment of the capture histogram in a zoom histogram (Leftwich: figs. 5A and 5B, col. 5, lines 43-65; Pruthi: figs. 10 and 11).

As per claims 4 and 30, Pruthi, Leftwich and Hamilton teach the method further comprising: including a data selection window useful for highlighting a segment of the zoom histogram (Leftwich: figs. 5A and 5B, col. 5, lines 43-65; Pruthi: figs. 10 and 11);

storing a first downloaded captured data file that includes sections corresponding to the segment of the zoom histogram highlighted by the data selection window and displaying data frames corresponding to the highlighted segment of the zoom window. Pruthi, Leftwich and Hamilton teach displaying sections of graph/histogram using user selected/highlighted section (see claims 1-3 above, see figs. 10 and 11 of Pruthi, figs. 4, 5A and 5B of Leftwich and figs. 1 and 3 of Hamilton, where it is readily apparent that the data corresponding to the sections of histogram is downloaded to the user device (Leftwich: col. 4, lines 47-60).

As per claim 5, Pruthi, Leftwich and Hamilton teach storing a second downloaded captured data file that includes sections corresponding to a segment of the zoom histogram previously highlighted by the data selection window. With respect to this limitation it is understood that according to Pruthi, Leftwich and Hamilton user can select and move selection window and also enlarge or narrow the size of the selection, window and the respective data is stored at user computer (see claim 4), where it is readily apparent that the second downloaded captured data is stored at the user.

As per claim 6, Pruthi, Leftwich and Hamilton expressly fail to teach storing the first downloaded captured data file and the histogram together in a folder, however it is readily apparent that the data is stored on the storage device and storing data in a folder is well known in the art and the Examiner takes official notice of the fact. Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to store data and the histogram in a folder for easy management of the stored data because folders are used to manage and categorize the data.

As per claims 7 and 8, Pruthi, Leftwich and Hamilton teach wherein presenting a user with a graphical interface representation of the network traffic comprise applying a compression algorithm to at least a portion of the information in the histogram (Hamilton: par. [0012]).

As per claim 13, Pruthi, Leftwich and Hamilton expressly fail to teach downloading sections from the network monitoring computer that are not stored in downloaded captured data files at the user computer, however Pruthi, Leftwich and Hamilton teach a system that analyzes the continuous network data (Pruthi: par. [0036] recursively collecting data; Hamilton: par. [0024]), and Leftwich teaches remote analysis and display (Leftwich: abstract), where it is readily apparent that the data is displayed in continuous manner and therefore the data not stored at user computer is downloaded from the monitor computer.

Pruthi, Leftwich and Hamilton further teach combining the downloaded sections with a downloaded captured data file that was previously stored at the user computer (Hamilton: pars. [0042] – [0046]).

As per claims 14 and 16, Pruthi, Leftwich and Hamilton teach saving histogram and downloaded data for later use (Pruthi: par. [0034]; Leftwich: col. 4, lines 50-60; Hamilton: par. [0045]).

As per claim 17, Pruthi, Leftwich and Hamilton teach creating an individual histogram for the downloaded capture data file stored on the user computer for later use and displaying the individual histogram at the user computer (Hamilton: pars. [0042] – [0046]).

As per claim 18, Pruthi, Leftwich and Hamilton teach a computer readable medium with instructions for performing the method of claim 1 (Pruthi: claim 74, Hamilton: claim 19).

Claim 19 is rejected under same rationales as applied to claim 1.

Claims 20 and 21 are rejected under same rationales as applied to claim 2.

Claim 22 is rejected under same rationales as applied to claim 13.

10. Claims 23-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pruthi et al. (US 2002/0105911) and further in view of Leftwich (US 6,356,256), Hamilton et al. (US 2004/0064293) and Fingerhut et al. (US 7,039,577).

As per claim 23, Pruthi, Leftwich and Hamilton teach storing captured data and sections of captured data as well as related histograms and start time, end time, total frames, total bytes for entire captured data and sections of captured data (see claim 1 above), however Pruthi, Leftwich and Hamilton fail to teach data structure with fields and storing data into folders. Fingerhut teaches storing histograms in the folders (Fingerhut: figs. 4-7) and using databases with various fields (col. 7, lines 31-50). Thus, it would have been obvious to one having ordinary skill in the art at the time of the invention to store data using fields of data structure as taught by Fingerhut to retrieve data more efficiently.

Claims 24-27 are directed towards giving particular names to the folders and location of folders, which can be mere design choice and as taught by Fingerhut, the folders are given names like host histograms, as well as the dates on which the data are

collected (figs. 4-6) and the histograms are stored at top level folder (e.g. fig. 4), thus it can be inferred that giving particular names and storing data at particular fields or location or partition is mere matter of design choice and failed to provide any patentable subject matter over Pruthi, Leftwich or Hamilton.

As per claim 28, Fingerhut teaches storing various histogram files (figs. 4-6), where it is readily apparent that when the file is opened, the file must create the related histogram from the downloaded data.

As per claim 29, Hamilton teaches at least one of the downloaded captured data files being formed from a plurality of downloaded captured data files (fig. 3).

Allowable Subject Matter

11. Claims 9-12 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

12. The examiner also requests, in response to this Office action, support be shown for language added to any original claims on amendment and any new claims. That is, indicate support for newly added claim language by specifically pointing to page(s) and line no(s) in the specification and/or drawing figure(s). This will assist the examiner in prosecuting the application.

When responding to this office action, Applicant is advised to clearly point out the patentable novelty which he or she thinks the claims present, in view of the state of the art disclosed by the references cited or the objections made. He or she must also show how the amendments avoid such references or objections See 37 CFR 1.111(c).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kaushikkumar Patel whose telephone number is (571)272-5536. The examiner can normally be reached on 7.30 am - 4.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung Sough can be reached on 571-272-6799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hyung S. Sough/
Supervisory Patent Examiner, Art Unit 2188
03/16/09

Kaushikkumar Patel
Examiner
Art Unit 2188

/kmp/